

Federal Communications Commission

§ 64.1001

mid-sized incumbent LEC files the annual reports required by § 43.21(e)(2) of this chapter.

[67 FR 5702, Feb. 6, 2002]

Subpart J—International Settlements Policy and Modification Requests

§ 64.1001 Requests to modify international settlements arrangements.

(a) The procedures set forth in this rule apply to carriers that are required to file with the International Bureau, pursuant to § 43.51(e) of this chapter, requests to modify international settlement arrangements. Any operating agreement or amendment for which a modification request is required to be filed cannot become effective until the modification request has been granted under paragraph (e) of this section. If you must file a modification request, you may either file electronically or on paper. The electronic form requires you to submit the same information that is required in the paper filing, specified below. A modification request may be filed electronically on the Internet through the International Bureau Filing System (IBFS) or by paper. For information on filing your notification through IBFS, see part 1, subpart Y of this chapter, and the IBFS homepage at <http://www.fcc.gov/ibfs>.

(b) A modification request must contain the following information:

- (1) The applicable international service;
- (2) The name of the foreign telecommunications administration;
- (3) The present accounting rate (including any surcharges);
- (4) The new accounting rate (including any surcharges);
- (5) The effective date;
- (6) The division of the accounting rate; and
- (7) An explanation of any proposed modification(s) in the operating agreement with the foreign correspondent.

(c) A modification request must contain the following information:

- (1) The applicable international service;
- (2) The name of the foreign telecommunications administration;

(3) The present accounting rate (including any surcharges);

(4) The new accounting rate (including any surcharges);

(5) The effective date;

(6) The division of the accounting rate; and

(7) An explanation of the proposed modification(s) in the operating agreement with the foreign correspondent.

(d) A modification request must contain a notarized statement that the filing carrier:

(1) Has not bargained for, nor has knowledge of, exclusive availability of the new accounting rate;

(2) Has not bargained for, nor has any indication that it will receive, more than its proportionate share of return traffic; and

(3) Has informed the foreign administration that U.S. policy requires that competing U.S. carriers have access to accounting rates negotiated by the filing carrier with the foreign administration on a nondiscriminatory basis.

(e) An operating agreement or amendment filed under a modification request cannot become effective until the modification request has been granted under paragraph (g) of this section.

(f) Carriers must serve a copy of the modification request on all carriers providing the same or similar service to the foreign administration identified in the filing on the same day a modification request is filed.

(g) All modification requests will be subject to a twenty-one (21) day pleading period for objections or comments, commencing the date after the request is filed. If the modification request is not complete when filed, the carrier will be notified that additional information is to be submitted, and a new 21 day pleading period will begin when the additional information is filed. The modification request will be deemed granted as of the twenty-second (22nd) day without any formal staff action being taken: provided

(1) No objections have been filed, and

(2) The International Bureau has not notified the carrier that grant of the modification request may not serve the public interest and that implementation of the proposed modification must

await formal staff action on the modification request. If objections or comments are filed, the carrier requesting the modification request may file a response pursuant to §1.45 of this chapter. Modification requests that are formally opposed must await formal action by the International Bureau before the proposed modification can be implemented.

[56 FR 25372, June 4, 1991, as amended at 58 FR 4354, Jan. 14, 1993; 60 FR 5333, Jan. 27, 1995; 62 FR 5541, Feb. 6, 1997; 62 FR 64758, Dec. 9, 1997; 64 FR 34742, June 29, 1999; 66 FR 16882, Mar. 28, 2001; 69 FR 23154, Apr. 28, 2004; 69 FR 29903, May 26, 2004; 69 FR 40327, July 2, 2004]

EFFECTIVE DATE NOTES: 1. At 69 FR 23154, Apr. 28, 2004, §64.1001 was amended by revising the section heading, paragraphs (a) and (b), by removing paragraphs (c) and (e), and by redesignating paragraphs (d), (f), and (g) as paragraphs (c), (d), and (e). These paragraphs contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

2. At 69 FR 40327, July 2, 2004, §64.1001 was amended by revising the section heading, and paragraphs (a) and (b). These paragraphs supersede the text of Apr. 28, 2004 and are incorporated in the section. These paragraphs contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 64.1002 International settlements policy.

(a) Except as provided in paragraph (b) of this section, a common carrier that is authorized pursuant to part 63 of this chapter to provide facilities-based switched voice, telex, telegraph, or packet-switched service on a U.S. international route, and that enters into an operating or other agreement to provide any such service in correspondence with a foreign carrier that does not qualify for the presumption that it lacks market power on the foreign end of the route, must comply with the following requirements:

(1) The terms and conditions of the carrier's operating or other agreement relating to the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, the allocation of return traffic, or the basis of settlement of traffic balances, are identical to the equivalent terms and conditions

in the operating agreement of another carrier providing the same or similar service between the United States and the same foreign point.

(2) The carrier shall not bargain for or agree to accept more than its proportionate share of return traffic.

(3) The division of tolls shall be evenly-divided between the U.S. carrier and foreign carrier.

(4) The carrier must also duly comply with the requirements in §43.51 and §64.1001 of this chapter.

NOTE TO PARAGRAPH (a): Carriers shall rely on the Commission's list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points for purposes of determining which of their foreign carrier correspondent agreements are subject to the requirements of this paragraph. This list is available on the International Bureau's World Wide Web site at <http://www.fcc.gov/ib>.

(b) A carrier that enters into an operating or other agreement with a foreign carrier for the provision of a common carrier service on an international route is not subject to the requirements of paragraph (a) of this section if the route appears on the Commission's list of international routes that the Commission has exempted from the international settlements policy. This list is available on the International Bureau's World Wide Web site at <http://www.fcc.gov/ib>.

(c) A carrier that seeks to add a U.S. international route to the list of routes that are exempt from the international settlements policy shall make its request in writing to the International Bureau, accompanied by a showing that a U.S. carrier has entered into a benchmark-compliant settlement rate agreement with a foreign carrier that possesses market power in the country at the foreign end of the U.S. international route that is the subject of the request. The required showing shall consist of an effective accounting rate modification, filed pursuant to §64.1001, that includes a settlement rate that is at or below the Commission's benchmark settlement rate adopted for that country in IB Docket No. 96-261, Report and Order, 12 FCC Rcd 19,806, 62 FR 45758, Aug. 29, 1997, available on the International Bureau's World Wide Web site at <http://www.fcc.gov/ib>.